

REMARKS

Claims 1-49 have been cancelled. Claims 50-78 are pending on the current application.

Applicants wish to thank the Examiner for participating in the personal interview dated June 21, 2005 in which Applicants representative Philip McGarrigle discussed the outstanding rejections and a draft proposed response, which was substantially identical to the present response. Mr. McGarrigle also provided the Examiner with a binder of material that was already filed in the present application. It was compiled for the Examiner's convenience and related to the proposed interference. No agreement was made regarding the claims.

Applicants acknowledge the allowance of claims 50-59, and 73-78. Claims 60-72 have been rejected under 35 USC §112, first paragraph. The Examiner explains that "Claim 60 states 'depositing droplets of monomer addition reagents on a surface of said support'. There is no disclosure of depositing droplets in the specification." Applicants respectfully disagree with the Examiner for the following reasons.

Applicants refer to Table B of the Preliminary Amendment filed March 24, 2004. With reference to claim 60 on page 9, the chart indicates that support for "(a) depositing droplets of monomer addition reagents on a surface of said support" can be found at "Page 16, 29-30 for depositing droplets. See also, page 9, lines 27-29; Figs. 3B, 4A, 4B, 6A and 6B; page 27, line 27 to page 28, line 16." Page 16, lines 29-30 show that Published PCT Application No. 93/09668 was incorporated by reference. A copy of that PCT is attached for the Examiner's convenience. The PCT application contains disclosure for depositing droplets of monomer addition reagents on a surface of said support. For example, see generally page 25, line 6 to page 35, line 6 and page 3, line 36 to page 4, line 3 and other passages cited below.

As an example of what is shown in the PCT application, Page 25, line 6 to line 14 are quoted as follows:

According to some embodiments, monomers (or other reactants) are deposited from a dispenser in droplets that fill predefined regions. For example, in a single coupling step, the dispenser deposits a first monomer in a series of predefined regions by moving over a first region, dispensing a droplet, moving to a second region, dispensing a droplet, and so on until the each of the selected regions has received the monomer. (emphasis added)

This passage clearly shows that ‘monomers’ are ‘deposited’ in ‘droplets’ on ‘predefined regions’ [of a support], which is the language of step (a) of claim 60. Applicants will not quote every relevant passage for obvious reasons, however, adequate support can be found in other passages as well. Consequently, Applicants assert that support for claim 60 is present in the current application by virtue of the incorporation of 93/09668 above.

This incorporation was specific to synthesis methods as page 16, lines 24-29 state “. . . the synthesis of oligonucleotides on the surface of a substrate may be carried out using light directed methods . . . or mechanical synthesis methods as described in 5,384,261 and Published PCT Application No. 93/09668”. (The ‘261 patent and 93/09668 application are related because 93/09668 is a CIP of ‘261). The incorporated material is directed to the synthesis of biopolymers, such as oligonucleotides and thus is specifically identified by the above passage.

MPEP section 608.01 (p) I. A. 2. states that Applicants are entitled to amend the specification to include the incorporated text into the present application. Applicants have inserted some text from 93/09668 into the present application and the text was taken from the following locations: page 3, line 36 to page 4, line 3; page 13, line 38 to page 14, line 10; page 25, line 8 to page 26, line 8; and page 28, line 11 to page 29, line 16. Applicants are also attaching a declaration that states that the above amendatory material

consists of the same material incorporated by reference in the present application.

Consequently, Applicants are entitled to amend the present application to include the subject matter above.

CONCLUSION

The present application incorporates subject matter from PCT Application No. 93/09668 and this text supports the language of claim 60- -“depositing droplets of monomer addition reagents of a surface of said support”. Applicants specifically stated on page 16, lines 27-30 in the present application that PCT Application No. 93/09668 contained disclosure regarding array synthesis, and clearly presented these terms in the present context for making arrays. For example, the incorporated language specifically recites “droplets”, “monomers”, and “solid support”. Furthermore, Applicants are clearly entitled to amend the present application to add the language above as shown in the MPEP. Consequently, Applicants respectfully request that the Examiner reconsider and withdraw the current rejections in light of the amendments and remarks above and issue a notice of allowance.

Additionally, since all of the pending claims are in condition for allowance, Applicants respectfully request that the Examiner declare an interference between the present claims and U.S. Patent No. 6,649,348 to Bass et al. Applicants have provided all of the necessary documentation in the previously submitted materials. Applicants can address any questions that the Examiner may have with a phone call to Applicants representative identified below.

Respectfully submitted,

Date June 28, 2005

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Attachments: Copy of PCT Application No. 93/09668

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